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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,727	04/04/2002	Kevin William Weeks	001940-2	1192
22204	7590	06/04/2004	EXAMINER	
NIXON PEABODY, LLP 401 9TH STREET, NW SUITE 900 WASHINGTON, DC 20004-2128			YIP, WINNIE S	
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 06/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/089,727

Applicant(s)

WEEKS, KEVIN WILLIAM

Examiner

Winnie Yip

Art Unit

3637

WY

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>3/10/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This office action is in response to applicant's amendment filed on March 10, 2004.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

1. Claims 1-5 and 7-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Fentiman (US Patent No. 2,964,147).

Fentiman teaches a longitudinal tube (3) comprising a crushed region (15) on each opposed end portions (14) the tube being selectively pressed or pinched together such that the opposed end portions of the tube abut each other to define a flat land (16) at a central location that is capable to receive a fixing element (18), and opposed lateral region of the tube located laterally either side of the land (16) including non-crushed regions (A) that define sub-tubes/ribs extending along the tube on either side of the land.

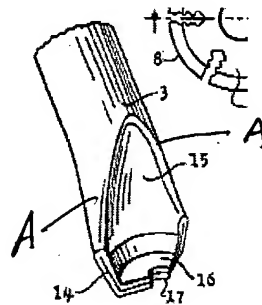
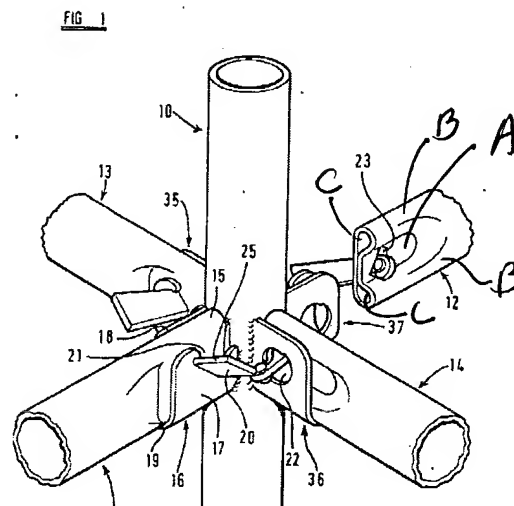


FIG. 7.

2. Claims 7-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Barton (UK Patent GB No. 2,045,886).

Barton teaches a longitudinal tube (12) (see Fig.1 bellow) comprising: opposed end portions including a flat land (A) at a central location of each end of the tube, wherein said flat land (A) could be formed by a method of either crushing, compressing or pinching to abut together, said flat land is capable to receive a fixing element, and the tube further including a longitudinally extending non-crushed region (B) being formed laterally either side of the crushed region to define ribs/sub-tubes (C) on lateral sides of the tube.



3. Claims 1-5 and 7-13 are rejected under 35 U.S.C. 102(b) as being anticipated by English Patent No. 594,051.

The English reference teaches a longitudinal tube (1) comprising opposed end portions (2) each having a central crushed region (5, 6) being pressed/compressed/or pinched and abut together to define a flat land to be capable to receive a fixing element (9), and a longitudinally extending non-crushed regions (4) located laterally either side of the crushed region to define ribs/sub-tubes on lateral sides of the crushed region.

Response to Amendment

4. Applicant's arguments, filed March 10, 2004, with respect to the rejections of claims 1-5, 7-13 under Codd '836 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, as better understood, upon further consideration, a new ground of rejection is made as set forth above.

Inquiry Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 703-308-2491. The examiner can normally be reached on M-F (9:30-6:30), Second Monday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Winnie Yip
Primary Examiner
Art Unit 3637

wsy
May 26, 2004